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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,862	01/21/2005	Paulus Cornelis Neervoort	NL 020772	1298
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EXAMINER				
HOEL, MATTHEW D				
ART UNIT		PAPER NUMBER		
3714				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/521,862

**Applicant(s)**

NEERVOORT ET AL.

**Examiner**

Matthew D. Hoel

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 02/21/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1 to 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Cordero, et al. (WIPO publication WO 01/65358 A2, application PCT/US01/05478, entered as FPL 02-21-2006).

1. As to Claim 1: A method of performing a competition between teams by means of at least two sets of modular units, the method comprising the steps of ('358, Abst., each set including at least one modular unit as claimed below; teams of groups of players (group player statistics), Page 20, Lines 9 to 11; team sports cited, Page 7, Lines 9 to 13):

- connecting a first set of modular units to a second set of modular units, wherein each set comprises at least one modular unit ('358, Abst.; tournament play between and among client computers, Page 20, Lines 4 to 8);

- determining which first modular unit in the first set is connected to which second modular unit or units in the first set (client-to-client play, Page 10, Lines 12-15, Fig. 1F-G);

- determining which third modular unit in the second set is connected to which fourth

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modular unit or units in the second set (client-to-client play, Page 10, Lines 12-15, Fig. 1F-G);

- determining for a set of information items at least one modular unit, wherein each information item individually relates to a specific modular unit in said sets; and wherein said set of information items represents competition-related information, and wherein said set of information items depends on the way in which said modular units are located relative to one another (one criterion being least latency which is determined at least in part by how far clients are away from each other, Page 19, Lines 16 to 19), and/or a property for each modular unit (device IDs retrieved to start a session, Page 34, Lines 13 to 19; device type, Page 34, Line 23 to Page 35, Line 2) and/or which first competition is performed (due to the and/or language, the examiner is interpreting this as a Markush claim with only one of these elements required);
- distributing the set of information items to the corresponding modular units (Claims 7 to 10 of '358, multiple channels in a multiplayer game); and
- presenting said set of information items on the modular units (Claims 7 to 10 of '358, multiple channels in a multiplayer game).

2. As to Claim 2: A method as claimed in claim 1, characterized in that the method further comprises the step of:

- receiving a first information item representing a property of a modular unit (device IDs retrieved to start a session, Page 34, Lines 13 to 19; device type, Page 34, Line 23 to Page 35, Line 2).

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3. As to Claim 3: A method according to claim 1, characterized in that the method further comprises the step of:

- receiving a second information item representing a second competition (player can select from among plural games, 8:5-8; also tournaments, 11:14-15, which involve several rounds of play).

4. As to Claim 4: A method according to claim 1, characterized in that the method further comprises the steps of:

- disconnecting a third set of modular units from the first and second set of modular units, wherein said third set comprises at least one modular unit; or
- connecting a fourth set of modular units to said first and second set of modular units, wherein said fourth set comprises at least one modular unit (in the tournament embodiment of '358 outlined above regarding Claim 1, the system will necessarily have to connect and disconnect players, as losing players are disconnected and winning players are matched together for the next round of play).

5. As to Claim 5: A computer system for performing the method according to claim

1. This claim is rejected for similar reasons as Claim 1, as it is a computer system for executing the method cited in Claim 1. See the 101 rejection below.

6. As to Claim 6: A computer program product comprising program code means stored on a computer readable medium for performing the method of claim 1 when the computer program is run on a computer. This Claim is rejected for reasons similar to Claim 1, as it is a computer program product for performing the method cited in Claim 1. See the 101 rejection below.

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7. As to Claim 7: A modular unit for performing a competition between teams by means of at least two sets of modular units ('358, Abst., each set including at least one modular unit as claimed below; teams of groups of players (group player statistics), Page 20, Lines 9 to 11; team sports cited, Page 7, Lines 9 to 13), said modular unit comprising:

- means for connecting a first set of modular units to a second set of modular units, wherein each set comprises at least one modular unit('358, Abst.; tournament play between and among client computers, Page 20, Lines 4 to 8) ;
- means for determining which modular unit is connected to which second modular unit or units in the first and the second set (client-to-client play, Page 10, Lines 12-15, Fig. 1F-G);
- means for determining a set of information items, wherein each information item individually relates to a specific modular unit in said sets; and wherein said set of information items represents competition-related information, and wherein said set of information items depends on the way in which said modular units are located relative to one another in said sets (one criterion being least latency which is determined at least in part by how far clients are away from each other, Page 19, Lines 16 to 19), and/or a property for each modular unit (device IDs retrieved to start a session, Page 34, Lines 13 to 19; device type, Page 34, Line 23 to Page 35, Line 2) and/or which first competition is performed (due to the and/or language, the examiner is interpreting this as a Markush claim with only one of these elements required) and/or which first competition is performed;

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- means for distributing the set of information items to the corresponding modular units in said sets; and

- means for presenting one of said information items.

8. As to Claim 8: A modular unit as claimed in claim 7, characterized in that the modular unit further comprises:

- means for receiving a first information item representing a property of a modulator unit (device IDs retrieved to start a session, Page 34, Lines 13 to 19; device type, Page 34, Line 23 to Page 35, Line 2).

9. As to Claim 9: A modular unit according to claim 7, characterized in that the modular unit further comprises: means for receiving a second information item representing a second competition (player can select from among plural games, 8:5-8; also tournaments, 11:14-15, which involve several rounds of play).

### ***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5 and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 5 and 6 appear to be intended to be dependent claims depending from Claim 1. While they are directed to statutory classes of matter, a claim cannot be directed to two or more classes of matter, even if they are all statutory. Claim 5 should be drawn to a computer system that executes the steps of the method of Claim 1 by writing it as an independent claim for a computer system,

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rewriting the limitations of Claim 1 as steps executed by the computer system. Claim 6 should be drawn to computer-executable code stored on a computer-readable medium, that when executed by a computer, executes the steps of a statutory method (with a physical transformation or a concrete, tangible, and useful result), rewriting the method of Claim 1 as steps executed by the computer. See MPEP 2105 and 2106. Citing for example, accepting input from a user via an input device, manipulating the data in physical memory by a physical processor, and displaying the resulting data to the user via an output device, would serve to give the claims a concrete, tangible, and useful result. The claims need to be properly rewritten as independent claims and the independent claim fees paid for.

#### ***Oath/Declaration***

11. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The oath cites "material to the examination of" instead of "material to the patentability of". Appropriate correction is required.



***Citation of Pertinent Prior Art***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cordero, et al. in U.S. pre-grant publication 200/0044339 A1 teach a multi-player gaming system.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571)272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3714